

## 48A C.J.S. Judges § 56

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### III. Term and Tenure of Office; Vacancy

#### C. Commencement of Term

## § 56. When time not otherwise fixed by law

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### West's Key Number Digest

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### When the time is not otherwise fixed by law, a judge's term begins on the date of the election.

When the time is not otherwise fixed by law, a judge's term generally begins on the date of the election.<sup>1</sup> In such jurisdictions, the length of the term and the powers of the office are fixed on the date of the election.<sup>2</sup> Accordingly, pursuant to statutory provision providing that if an incumbent judge runs for reelection unopposed he or she is deemed elected, the date of his or her election for purposes of the commencement of his or her term is deemed to be the last day upon which a petition can be filed giving notice that a write-in campaign will be conducted.<sup>3</sup>

In other jurisdictions, the term of a judicial office is deemed to commence on a fixed day following the election,<sup>4</sup> on the date of appointment<sup>5</sup> and qualification,<sup>6</sup> after taking the oath of office,<sup>7</sup> or on the date of certification of the election.<sup>8</sup> The date of the assumption of the office generally has no relevance to the length of the term<sup>9</sup> though there is authority to the contrary.<sup>10</sup>

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### Footnotes

<sup>1</sup> Cal.—*Brown v. Hite*, 64 Cal. 2d 120, 48 Cal. Rptr. 869, 410 P.2d 373 (1966).

#### Not on date of commission

Ill.—*People ex rel. Sullivan v. Powell*, 35 Ill. 2d 19, 217 N.E.2d 806 (1966).

<sup>2</sup> La.—*Calogero v. State ex rel. Treen*, 445 So. 2d 736 (La. 1984).

- 3 Cal.—*Brown v. Hite*, 64 Cal. 2d 120, 48 Cal. Rptr. 869, 410 P.2d 373 (1966).
- 4 Pa.—*Reed v. Sloan*, 25 Pa. Commw. 570, 360 A.2d 767 (1976), judgment aff'd, 475 Pa. 570, 381 A.2d 421 (1977).
- 5 N.J.—*Levine v. Mayor of City of Passaic*, 233 N.J. Super. 559, 559 A.2d 485 (Law Div. 1988).
- Appointment defined**  
For the purpose of measuring the period after appointment when a judge must run in a retention election, appointment means date of designation by governor, not act of installation in office.
- Alaska—*Division of Elections of State v. Johnstone*, 669 P.2d 537 (Alaska 1983).
- 6 Neb.—*Garrotto v. McManus*, 185 Neb. 644, 177 N.W.2d 570 (1970).
- Qualification and assumption of office**  
Qualification and assumption of office, not merely election, causes a judge's term to come into existence.
- Cal.—*Lungren v. Davis*, 234 Cal. App. 3d 806, 285 Cal. Rptr. 777 (3d Dist. 1991).
- 7 Ala.—*Estes v. Ashurst*, 794 So. 2d 1199 (Ala. Civ. App. 2001).
- 8 Mass.—*Opinion of the Justices*, 370 Mass. 886, 352 N.E.2d 673 (1976).
- 9 La.—*Calogero v. State ex rel. Treen*, 445 So. 2d 736 (La. 1984).
- 10 Fla.—*In re Advisory Opinion to the Governor-Terms of County Court Judges*, 750 So. 2d 610 (Fla. 1999).